THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15885 of 2007

Dated: 30-07-2007

Between:

Itikyala Arjun and another.

..... PETITIONERS

AND

The Joint Collector, Medak, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15885 of 2007

ORDER:

Father of the petitioners was allegedly granted Occupancy Rights Certificate (ORC) under Sections 5 and 10 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity) by proceedings dated 20.12.1981 in respect of land admeasuring Acs.4.36 guntas in survey No.657 and Acs.6.50 in survey No.658. It is also the case of the petitioners that after death of their father, they applied for succession before third respondent, who sanctioned the same by order dated 15.07.1995, duly recognizing the family partition. Be that as it is, on an application filed by respondents 4 to 8 herein, the original authority, namely, the Revenue Divisional Officer, second respondent herein issued ORC in their favour in respect of land to an extent of Acs.6.02 in survey Nos.10, 45, 101, 742 and 657 by proceedings in Case No.H/3061/2003 dated 08.08.2005. The petitioners allege that respondents 4 to 8 or second respondent did not implead them though ORC was issued earlier in favour of their father and they were not aware of said proceedings. After coming to know about said proceedings dated 08.08.2005, impugned in the writ petition, they filed an appeal before first respondent on 25.06.2007. They also moved an application for interim stay. No orders are passed on the same. Therefore, they filed instant writ petition again challenging the original order passed by second respondent.

The learned counsel for the petitioners submits that when once ORC was issued in favour of their father in respect of the total extent of land i.e., Acs.4.36 in survey No.657, there could not have been another ORC in respect of land admeasuring Acs.2.18 in said survey number. According to the learned counsel, pendency of the appeal before first respondent does not bar a writ petition, which is opposed by the learned Assistant Government Pleader for Revenue.

As rightly pointed out by the learned Assistant Government Pleader, father of the petitioners was granted ORC in respect of total extent of land i.e., Acs.4.36 in survey No.657 whereas land to an extent of Acs.2.18 in said survey number also forms part of the land for which ORC was granted in the impugned proceedings in favour of respondents 4 to 8. Therefore, it is always better for first respondent to look into this aspect. The learned counsel for the petitioners insists upon an interim order to protect the possession of the petitioners. The same be cannot be considered for two reasons. First, when once remedy of appeal is availed, the writ petition would not lie and it would not be proper for this Court to pass an interim order, while rejecting the writ petition in *limine*. Secondly when respondents 4 to 8 were granted ORC in respect of

Acs.6.02 ½ guntas in various survey number, if an order of *status quo* is passed by this Court, it would likely result in prejudice to respondents 4 to 8 as well as the petitioners, who are parties before the appellate authority/first respondent. The best way for the petitioners is to approach first respondent and insist upon interim order with a copy of this order, on which event, first respondent shall pass orders immediately.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

30th July, 2007
ghn